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January 20, 2022

The Honorable Colm F. Connolly  
United States District Court  
for the District of Delaware  
844 North King Street  
Wilmington, DE 19801

*VIA ELECTRONIC FILING*

Re: CareDx, Inc. v. Natera, Inc., C.A. No. 19-662 (CFC) (CJB)

Dear Chief Judge Connolly:

We write to follow up on the December 16, 2021 status conference regarding the parties' availability for trial the weeks of March 7 and March 14, 2022. We understand that this action would be second in line to proceed the week of March 7 due to a scheduled criminal trial, and that a decision whether this action would proceed to trial March 7 would be made by February 25.

The parties' respective positions are set forth below.

**CareDx:**

CareDx is available the weeks of March 7 and March 14 and believes that trial can be completed in five business days, with all witness testimony completed in four trial days, and closing statements taking place on the fifth trial day. CareDx therefore respectfully requests that the Court schedule trial for the week of March 7, with closing arguments scheduled for the week of March 14. CareDx's proposed trial schedule would ameliorate any concern Natera has regarding the availability of its expert, Dr. Makuch, because expert testimony will be concluded before the week of March 14. Given the three trial date continuances already, and that this case involves each of these head-to-head competitors alleging that transplant patients are

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being deceived about the efficacy of the parties' medical tests, CareDx remains interested in trying this case as soon as practical. Further delay hurts the important public interest in removing false advertising.

**Natera:**

Natera understands that the Court may not be available for the full March 14 week, and would only have four days available during the week of March 7. Natera is available the week of March 7, but wishes to advise the Court of two concerns. First, one of Natera's experts, Dr. Robert Makuch, the biostatistician and technical expert retained to testify and assist Natera's counsel regarding CareDx's claims, has a long-scheduled visiting teaching engagement the entire week of March 14. Natera disagrees that jury selection, openings, and the taking of evidence regarding both claims and counterclaims are likely to be complete in four days. Thus, Natera is concerned that even if Dr. Makuch can testify during the week of March 7, he will not be available to consult with counsel for the remainder of trial. Second, Natera believes it would be preferable to have the trial scheduled for a week when this case will be first in line, rather than a contingent March 7 date. We have discussed both of these issues with CareDx's counsel.

If, however, the Court is inclined to schedule the trial to begin the week of March 7, Natera requests that a final decision as to whether the trial will proceed that week be made earlier than February 25, the date discussed during the telephone conference, to accommodate trial preparations and travel arrangements.

Respectfully,

*/s/ Derek J. Fahnestock*

Derek J. Fahnestock (#4705)

DJF:lo

Enclosure(s)

cc: Clerk of the Court (via hand delivery)

All Counsel of Record (via CM/ECF and e-mail)